

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KRISTIN A. CARMODY, M.D., M.H.P.E.,	:	
Plaintiff,	:	
	:	21 Civ. 8186
-against-	:	
	:	<u>ORDER</u>
NEW YORK UNIVERISTY, et al.,	:	
Defendants.	:	
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LORNA G. SCHOFIELD, District Judge:

WHEREAS, fact discovery closed on July 11, 2022.

WHEREAS, on October 25, 2022, Plaintiff filed a motion for a mandatory adverse inference, relating to Defendants' alleged failure to preserve and produce relevant text messages in discovery. The same day, Defendants filed a motion for summary judgment. The parties' respective memoranda of law in opposition to these motions are due December 6, 2022. Defendants' reply in support of its motion for summary judgment is due December 20, 2022.

WHEREAS, on November 3, 2022, Defendants made a supplemental production of newly-identified text messages to Plaintiff. On November 4, 2022, Plaintiff filed a letter on ECF regarding Defendants' production. Plaintiff's letter sought five forms of relief, including the denial of summary judgment for Defendants, an order directing Defendants to properly identify and produce text messages, further depositions, an immediate trial date, and attorneys' fees. On November 11, 2022, Defendants filed a response, opposing the requests. It is hereby

ORDERED that discovery is reopened for the limited purpose of locating and producing text messages. Defendants shall retain an e-discovery vendor to process the relevant custodians' phones and cloud storage accounts. The parties shall negotiate in good faith over search terms to identify relevant text messages. When the parties have agreed on search terms, Defendants shall produce any responsive text messages to Plaintiff. The parties are directed to conduct this

process expeditiously. Defendant shall complete supplemental productions no later than **December 16, 2022**. It is further

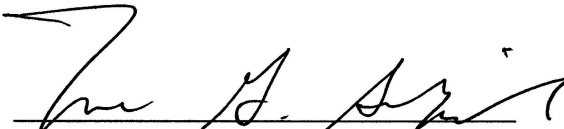
ORDERED that Plaintiff's request to take further depositions is **DENIED**, without prejudice to renew. Following the completion of any supplemental productions, and no later than **December 22, 2022**, Plaintiff may file a letter motion to re-open discovery for the purpose of deposing witnesses regarding the contents of any text messages produced by Defendants. Any such motion shall identify the deponents Plaintiff seeks further discovery from, the matters to be discussed, and the approximate time needed for further deposition. It is further

ORDERED that Plaintiff's other requests for relief are **DENIED**, including her request that summary judgment be denied, that the e-discovery vendor produce the text messages simultaneously to Plaintiff and Defendants, and that an immediate trial date be set. Plaintiff's request for attorneys' fees is **DENIED**, without prejudice to renew. It is further

ORDERED that Plaintiff's motion for a mandatory adverse inference against Defendants is **DENIED**, without prejudice to renew. Following the completion of additional discovery, including any further depositions, Plaintiff will have the opportunity to refile her motion in its current form or file an amended motion seeking an adverse inference and/or other forms of relief, including attorneys' fees. It is further

ORDERED that the deadlines for Plaintiff's opposition to Defendants' motion for summary judgment and for Defendants' reply in further support of their motion remain the same.

Dated: November 23, 2022
New York, New York


LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE